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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,868	10/25/2001	Gerald Harris	340800014COB	6762
27572	7590	11/03/2003	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			MORRISON, NASCHICA SANDERS	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,868

Applicant(s)

HARRIS, GERALD

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-26 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-26 and 32-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the third Office Action for serial number 10/074,868, Overboot For A Bi-Pod Adapter, filed on October 25, 2001. Claims 24-26 and 32-34 are pending.

Response to Appeal Brief

In view of the appeal brief filed on 7/15/03, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,711,103 to Keng in view of U.S. Patent 5,713,382 to Midcap in view of U.S. Patent 4,964,430 to Janis in view of U.S. Patent 2,799,287 to Wagner, and further in view of U.S. Patent 612,685 to Thorp et al (Thorp). Keng discloses a multi-legged firearm support assembly (10) comprising: a mounting block (16), two downwardly

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extending legs (57,58) each connected to the mounting block and having a width and a foot portion (81), wherein the foot portion includes a generally cylindrical upper portion (adjacent 79) and a lower portion (at 81). Keng does not disclose the lower portion having the shape of a truncated cone. Midcap discloses a foot portion (100) having a generally cylindrical upper portion (110) and a truncated cone-shaped lower portion (120) including a flat floor (at 160 in Fig. 3), wherein the truncated cone-shaped portion has a maximum diameter substantially greater than the substantially constant diameter of the upper portion (110). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the foot portion of Keng by providing a lower portion having the shape of a truncated cone because one would have been motivated to provide better stability on sand and gravel as taught by Midcap (Abstract, lines 1-5 and col. 2, lines 8-12).

Keng in view of Midcap does not disclose the firearm support assembly including an overboot in combination with the foot portion. Janis discloses an thin walled overboot (Figs. 1 and 3) for a foot portion (6) that is constructed of a flexible material ("flexible" is defined by Merriam Webster's 10th Edition Dictionary as "yielding to influence") comprising: an upper portion circumferentially surrounding the foot portion (portion of 2 that is adjacent 4), a flat floor (8) having a concentric rib (1), a cylindrical, lower portion (at 2 generally) extending upwardly from the floor (8) to interconnect the floor (8) and upper portion, and a band/cord (5) removably encircling the upper portion of the overboot; wherein the upper portion includes a plurality of triangularly shaped slots (3) creating a plurality of axially extending fingers (see near 4) which

accommodate circumferential constriction of the upper portion about the foot portion (6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the firearm support assembly by providing an overboot attached to the foot portion because one would have been motivated to prevent slippage of the feet on ice or packed snow as taught by Janis (col. 1, lines 5-8).

Keng in view of Midcap in view of Janis does not disclose the cylindrical, lower portion (at 2 generally) being conical and extending outwardly from the floor (8).

Wagner discloses a foot portion (T) combined with an overboot (Fig. 1), wherein the overboot closely envelops the sides and bottom of the foot portion (T). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot to be sized and shaped identical to the foot portion (i.e. provide a truncated cone-shaped lower portion) because one would have been motivated to prevent relative movement between the overboot and foot portion as taught by Wagner (col. 1, lines 56-61).

Keng in view of Midcap in view of Janis in view of Wagner does not teach the fingers (see near 4) forming a recess for receiving the band/cord (5). Thorp discloses a coupling (Fig. 2) including annular, radially extending fingers (3) forming a recess (defined beneath the curved surface of 6) for receiving a band/strap (4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing fingers forming a recess because one would have been motivated to prevent the band from slipping off the overboot as taught by Thorp (lines 61-66).

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner and further in view of U.S. Patent 2,447,080 to Meier. Keng discloses a multi-legged firearm support assembly (10) comprising: a mounting block (16), two downwardly extending legs (57,58) each connected to the mounting block and having a width and a foot portion (81), wherein the foot portion includes a generally cylindrical upper portion (adjacent 79) and a lower portion (at 81). Keng does not disclose the lower portion having the shape of a truncated cone. Midcap discloses a foot portion (100) having a generally cylindrical upper portion (110) and a truncated cone-shaped lower portion (120) including a flat floor (at 160 in Fig. 3), wherein the truncated cone-shaped portion has a maximum diameter substantially greater than the substantially constant diameter of the upper portion (110). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the foot portion of Keng by providing a lower portion having the shape of a truncated cone because one would have been motivated to provide better stability on sand and gravel as taught by Midcap (Abstract, lines 1-5 and col. 2, lines 8-12).

Keng in view of Midcap does not disclose the firearm support assembly including an overboot in combination with the foot portion. Janis discloses an thin walled overboot (Figs. 1 and 3) for a foot portion (6) that is constructed of a flexible material ("flexible" is defined by Merriam Webster's 10th Edition Dictionary as "yielding to influence") comprising: an upper portion circumferentially surrounding the foot portion (portion of 2 that is adjacent 4), a flat floor (8) having a concentric rib (1), a cylindrical,

lower portion (at 2 generally) extending upwardly from the floor (8) to interconnect the floor (8) and upper portion, and a band/cord (5) removably encircling the upper portion of the overboot; wherein the upper portion includes a plurality of triangularly shaped slots (3) creating a plurality of axially extending fingers (see near 4) which accommodate circumferential constriction of the upper portion about the foot portion (6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the firearm support assembly by providing an overboot attached to the foot portion because one would have been motivated to prevent slippage of the feet on ice or packed snow as taught by Janis (col. 1, lines 5-8).

Keng in view of Midcap in view of Janis does not disclose the cylindrical, lower portion (at 2 generally) being conical and extending outwardly from the floor (8). Wagner discloses a foot portion (T) combined with an overboot (Fig. 1), wherein the overboot closely envelops the sides and bottom of the foot portion (T). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot to be sized and shaped identical to the foot portion (i.e. provide a truncated cone-shaped lower portion) because one would have been motivated to prevent relative movement between the overboot and foot portion as taught by Wagner (col. 1, lines 56-61).

Keng in view of Midcap in view of Janis in view of Wagner does not disclose the overboot including a plurality of generally triangular concentric ribs extending radially between the floor and upper portion. Meier discloses an overboot (14) comprising: a cylindrical upper portion (upper portion located adjacent 15 in Fig. 2) for engaging a foot

portion (7) and a truncated cone-shaped lower portion with a plurality of generally triangular concentric ribs (17) radially extending between a floor (16) and the cylindrical upper portion (located adjacent 15 in Fig. 2) of the overboot (14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing concentric ribs extending radially between the floor and upper portion of the overboot because one would have been motivated to increase surface contact and prevent slippage of the feet as taught by Urban (col. 1, lines 52-55).

Claims 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner in view of Meier, and further in view of Thorp. Regarding claim 32, Keng in view of Midcap in view of Janis in view of Wagner in view of Thorp discloses the overboot and foot combination as applied to claims 25 and 26 above, but does not teach the fingers (see near 4) forming a recess for receiving the band/cord (5). Thorp discloses a coupling (Fig. 2) including annular, radially extending fingers (3) forming a recess (defined beneath the curved surface of 6) for receiving a band (4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing fingers forming a recess because one would have been motivated to prevent the band from slipping off the overboot as taught by Thorp (lines 61-66). Regarding claim 34, Keng in view of Midcap in view of Janis in view of Wagner in view of Meier in view of Thorp fails to disclose the cord being removably tied about the wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing a tied cord type band since it is well known in the art to

alternatively connect members by a tied cord, for instance by lashing members together in a clamped arrangement.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner in view of Meier in view of Thorpe as applied to claims 32 and 34 above, and further in view of U.S. Patent 4,947,882 to Levasseur. Regarding claim 33, arguably, the band/cord (5) of Janis comprises a pliant strap (column 2, line 65 described as adjustable) inherently having a diameter, in a relaxed state, less than the diameter of the upper portion of the overboot in a disengaged state (otherwise the band would not be able to clamp the overboot on the foot portion). Nonetheless, Levasseur discloses an overboot (3) including a spring/cord (60) inherently having a smaller diameter than the diameter of the upper portion (51 generally) of the overboot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the overboot with a spring-type band as a well known art equivalent means for clamping the upper portion of the overboot as taught by Levasseur.

Response to Arguments

Applicant's arguments with respect to claim 26 and Urban have been considered but are moot in view of the new ground of rejection.

Applicant's arguments filed 7/15/03 have been considered but are not persuasive.

Regarding Applicant's argument that "providing better stability is a common goal in the art of overboots and cannot be used...", examiner respectfully reminds applicant that the motivation for combining Keng with Midcap does not merely suggest providing better stability but is specifically directed to stabilizing the firearm support on sand and gravel. Additionally, regarding applicant's argument that combining the "L-shaped feet 81" of Keng with the foot portion (100) of Midcap or the overboot (Fig. 1) of Janis would destroy the function and purpose of each, examiner respectfully disagrees. The rejection detailed above modifies the L-shaped foot (81) of Keng such that it includes the cylindrical upper portion (see Keng; adjacent 79) and a truncated cone-shaped lower portion as taught by Midcap (120) (i.e. the flat portion (at 81 in Fig. 2 of Keng) has been modified to be formed as a truncated cone). The combination of Keng and Midcap does not appear to destroy the function or purpose of the foot portion (81) taught by Keng since Keng has not disclosed that the L-shape performs a specific function or purpose and further since applicant has not cited any specific purpose or function believed to be related to the "L-shape" of the foot portion (81). Additionally, clearly a truncated cone-shaped lower foot portion can be accommodated by the overboot of Janis and therefor does not appear to destroy the function or purpose of the modified foot portion of Keng in view of Midcap or the overboot of Janis.

Regarding Applicant's argument that Janis does not disclose the axially extending fingers cooperating to form an axially surrounding surface (so as to be able to form a continuous recess), examiner respectfully disagrees. Although Janis does not *illustrate* the fingers forming a continuous recess, the fingers are fully capable of forming

a continuous surface since the fingers are formed by inverted triangular slots that enable the fingers to be gathered/bunched to thereby form a continuous surface.

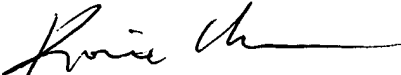
In response to applicant's argument that the motivation provided by Thorp is contrary to the mode of operation described in applicant's disclosure, it is noted that the features upon which applicant relies (i.e., "Appellant's disclosure teaches stretching the band 64 to slide it over the annular flange 54 before it is nested within the recess 62") are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
10/29/03


Korie Chan
Primary Examiner
Art Unit 3632